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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,282	02/17/2004	Charles L. Deschenes	81204D3	7074
23685 7590 04/28/2010 KRIEGSMAN & KRIEGSMAN 30 TURNPIKE ROAD, SUITE 9 SOUTHBOROUGH, MA 01772				
EXAMINER VARGOT, MATHEU'D				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
04/28/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/780,282

**Applicant(s)**

DESCHENES ET AL.

**Examiner**

Mathieu D. Vargot

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 70, 74-80, 82 and 83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70, 74-80, 82 and 83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 70, 74-76, 82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mello et al in view of Williams et al and Winstead (see abstract).

Mello et al and Williams et al disclose the basic claimed method as already noted, the combination lacking the aspect of making at least one of the webs through continuous rotary extrusion molding. Note that Mello et al teaches a continuous vacuum or **thermoforming** for the webs but does not teach rotary extrusion molding. Newly applied Winstead (see the abstract, line 1) shows that "continuous thermoforming" to form containers and lids can also include rotary extrusion molding, and hence the latter would be considered to be an obvious way to thermoform a web material in a continuous manner. It would have been obvious to have modified the vacuum forming of the primary reference with a rotary extrusion molding as taught in Winstead dependent on the exact equipment available to perform the thermoforming. It also would have been obvious to have formed both the lids and the container bodies—ie, both webs-- using a continuous rotary extrusion molding since such an operation would have been expected to be useful for making either container part. Ie, if one were to

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employ equipment to make one web, certainly it would have been obvious to use such equipment to make the other web.

2. Claims 77-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mello et al in view of Williams et al and Winstead (see abstract) and further in view of Andersen, III et al generally for reasons of record as set forth in paragraph 1, supra and paragraph 2 of the last action.

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant submits that the references do not teach the instant rotary extrusion molding, nor would they render such obvious. However, newly found Winstead shows that rotary extrusion molding is a common way to thermoform containers and the primary reference is directed to thermoforming webs for containers. Certainly, it would have been obvious to have substituted one form of thermoforming involving rotary extrusion molding (Winstead) for another using vacuum molding (Mello et al). Given that Williams et al basically teaches the equivalence of a lamination nip and a lamination press, it is respectfully submitted that one of ordinary skill in the art would not have had any trouble substituting one for the other, regardless of the relative flexibility of the webs being processed. Perhaps the lamination conditions would have to be adjusted somewhat, but this is within the skill level of the art and the process parameters would have been readily determined through routine experimentation.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone

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number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
April 24, 2010

/Mathieu D. Vargot/  
Primary Examiner, Art Unit 1791